

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HELIODORO A. SILVA,

Plaintiff,

v.

JEANNE SCHECHTER, *et al.*,

Defendants.

No.: 1:20-cv-01612-NONE-EPG

ORDER CONSTRUING MOTION TO REMAND
AS A REQUEST FOR VOLUNTARY
DISMISSAL OF FEDERAL CLAIMS;
DECLINING TO EXERCISE SUPPLEMENTAL
JURISDICTION OVER REMAINING STATE
LAW CLAIMS; AND REMANDING THE
MATTER TO STATE COURT

(Doc. Nos. 4–5)

Plaintiff Heliodoro A. Silva, a state prisoner, initially brought this action in the Merced County Superior Court against the judge, prosecutor, detective, State of California, County of Merced, and City of Merced involved in the alleged “unlawful” conviction of plaintiff for aiding and abetting two murders. (Doc. No. 1, Ex. A (Compl.) ¶¶ 4–6.) Plaintiff’s complaint asserts both federal and state law causes of action. (*Id.*, Compl. at 17–18.) Accordingly, defendants removed this action to this federal court in November 2020 based on federal question jurisdiction. (*Id.* ¶ 4.) Defendants then moved to dismiss the entire complaint under Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 4 at 1.) Plaintiff has opposed defendants’ motion to dismiss and filed a motion to remand. (Doc. Nos. 5–6.)

In his motion to remand, plaintiff argues that defendants are “wrong when [they] said that the causes of actions concern[] federal questions,” and insists that his lawsuit is based solely on

1 state law. (Doc. No. 4 at 2) (alteration in original). The court construes plaintiff's filing as an
2 indication that, to the extent his complaint ever attempted to assert federal causes of action, he is
3 no longer interested in pursuing those claims against the named defendants. The court will
4 therefore treat the motion to remand as a request for voluntary dismissal of any federal claims
5 under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

6 Because this case was removed to this court only recently, no substantial judicial resources
7 have been expended on it. *See Carnegie-Mellon Univ. v. Cohill*, 484 US 343, 350 (1988).
8 Consequently, the court declines to exercise supplemental jurisdiction over the remaining state law
9 claims and will remand the matter to the Merced County Superior Court.


10 CONCLUSION

11 For the reasons set forth above:

- 12 (1) Plaintiff's motion to remand, construed as a request for voluntary dismissal of any
13 federal claims, (Doc. No. 5) is GRANTED;
14 (2) Any federal claims asserted in the complaint (Doc. No. 1, Ex. A) are DISMISSED;
15 (3) The court declines to exercise supplemental jurisdiction over the remaining state law
16 claims;
17 (4) Defendants' motion to dismiss (Doc. No. 4) is DENIED AS MOOT;
18 (5) The case is REMANDED to the Merced County Superior Court; and
19 (6) The Clerk of the Court is DIRECTED to assign a district judge to this matter for the
20 purposes of closure and then to close this case.

21 IT IS SO ORDERED.

22 Dated: December 8, 2020

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24 UNITED STATES DISTRICT JUDGE